

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

**Plaintiff,**

**V.**

**JOHN MICHAEL KELLY, STEVEN E.  
RINDNER, JOSEPH A. RIPP, and  
MARK WOVSANIKER,**

**Defendants.**

08 Civ. 4612-SWK  
(ECF Case)

## NOTICE OF MOTION TO DISMISS

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law and the accompanying declaration and the exhibits attached thereto, by and through his counsel, Debevoise & Plimpton LLP, Defendant J. Michael Kelly moves this Court, pursuant to Rules 12(b)(6) and 9(b) of the Federal Rules of Civil Procedure, for an order dismissing the Complaint against him filed by the Securities and Exchange Commission.

Dated: New York, New York  
September 5, 2008

DEBEVOISE & PLIMPTON LLP

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